

Message Text

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E.O. 11652:GDS

TAGS: ETRD, SZ

SUBJECT: EEC/HONG KONG TEXTILE BILATERAL AGREEMENT

REF: PHELAN/SMITH TELCON AUGUST 5

GENEVA FOR PHELAN

1. OUR INITIAL REACTION TO EEC/HK TEXTILE BILATERAL AS
FOLLOWS:

2. ARTICLE 1 PARA 2- WHILE THE EEC WILL DOUBTLESS TRY
TO POINT WITH PRIDE THAT THIS BILATERAL IS SELECTIVE, A
CURSORY REVIEW OF THE ANNEXES INDICATES THAT VIRTUALLY
ALL HK'S TEXTILE TRADE WITH EEC IS COVERED. SAME PARA,
IN REFERRING TO ARTICLE 4 (ESPECIALLY PARA 14), HAS
SERIOUS AND PERHAPS NEGATIVE IMPLICATIONS.

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3. ARTICLE 2 - WHAT DOES EEC MEAN BY QUOTE SUBJECT TO
THE SATISFACTORY OPERATION OF THIS AGREEMENT UNQUOTE? IS
THIS A POSSIBLE LOOPHOLE FOR EEC TO APPLY ARTICLE 3 OF
MFA IF, IN ITS OPINION, BILATERAL IS NOT OPERATING
SATISFACTORILY?

4. ARTICLE 4, PARA 14 - THIS PARA SEEMS TO BE ATTEMPT BY EEC TO EXPAND MFA COVERAGE INTO NON-TEXTILE (AS DEFINED BY MFA) PRODUCTS. IF SO, USG MAY WISH TO FORMALLY RAISE THIS IN TSB WHEN BILATERAL COMES UP FOR REVIEW. AS YOU CAN IMAGINE, US DOMESTIC TEXTILE INDUSTRY WOULD LOVE TO SEE USG INCORPORATE SIMILAR WORDING IN OUR BILATERALS, AND WE HAVE SUCCESSFULLY RESISTED DOING SO. IF EEC DOES SUCCEED IN GETTING SUCH NON-TEXTILE PRODUCTS COVERED UNDER GUISE OF BEING QUOTE LIKE PRODUCTS UNQUOTE, PRESSURES ON US WOULD SURELY MOUNT TO DO SAME. THIS PARA WARRANTS FULL CLARIFICATION.

5. ARTICLE 5, PARA 5 - EEC SEEMS TO HAVE LIMITED FLEXIBILITY FOR ALL CATEGORIES TO MAXIMUM OF 15 PERCENT INCLUDING CARRY OVER AND CARRY FORWARD, OR IN ESSENCE, FIVE PERCENT AFTER C/O AND C/F ARE DEDUCTED. US DOMESTIC REACTION COULD BE STRONG HERE, AS USG HAS GIVEN A MINIMUM 16 PERCENT (FOR WOOL) AND 18 PERCENT FOR EVERYTHING ELSE. WHERE CONSULTATION LEVELS WERE SET, USG GAVE 100 PERCENT INTERFIBER FLEXIBILITY PLUS THE ABILITY, UPON USG APPROVAL, TO EXCEED SUCH CONSULTATION LEVELS UP TO GROUP AND/OR AGGREGATE LEVELS. SAME PARA OF ARTICLE 5 EVEN WHILE GRANTING 15 PERCENT FLEXIBILITY, TAKES IT AWAY WITH PARA 1 (B)(II)(A) AND (B), THUS IN EFFECT REDUCING CARRY OVER AND CARRY FORWARD TO 8 PERCENT WHICH SEEMS TO BE CONTRARY TO PROVISIONS UNDER MFA ANNEX B.

6. ARTICLE 6, PARA 2 - UNCERTAIN AS TO THE MEANING OF THIS, BUT IT COULD BE CONSTRUED AS NOT ALLOWING ANY CONSULTATION LEVELS TO BE EXCEEDED, I.E., NOT ALLOWING ANY FLEXIBILITY. FURTHERMORE, THE EEC USES THE WORDS QUOTE SERIOUS DIFFICULTIES UNQUOTE WITH NO REFERENCE TO MARKET DISRUPTION OR THREAT THEREOF. IT WOULD SEEM THAT, AT A MINIMUM, REFERENCE TO DISRUPTION MUST APPEAR IN THE CONFIDENTIAL

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PARA.

7. ARTICLE 9, PARA 2 - LIKEWISE, WE ARE UNCERTAIN AS TO THE MEANING OF THIS. WHAT IS EEC INTERPRETATION?

8. ARTICLE 10 - IT WAS OUR UNDERSTANDING THAT WHEN MFA WAS NEGOTIATED IN DECEMBER 1973, EEC NEGOTIATOR STATED EXCEPTIONS FOR IRELAND WOULD REMAIN ONLY FOR ONE YEAR. THIS ARTICLE EXTENDS THAT EXCEPTION FOR TWO AND ONE HALF YEARS MORE RPT MORE. US DOMESTIC INDUSTRY WILL QUESTION THIS AS NOT CONSISTENT WITH WHAT WE HAVE TOLD THEM.

9. ARTICLE 12, PARAS 1 AND 2 - THESE PARAS ARE ALSO LIKELY TO HAVE ADVERSE IMPACT ON US DOMESTIC INDUSTRY

INTERESTS AS THE EEC SEEMS TO HAVE BEEN REWARDED FOR ITS DELAY IN LIBERALIZATION. THE NEW BILATERAL REMAINS IN EFFECT FOR ONLY 17 AND ONE HALF MONTHS AND THERE IS NOT EVEN ANY RETROACTIVITY FOR CALENDAR YEAR 1975. THUS, AT A MINIMUM, HK WOULD SEEMS TO LOSE 6 AND ONE HALF MONTHS OF LIBERALIZATION FOR 1975 TO SAY NOTHING OF ALL OF LAST YEAR.

10. ANNEX I - THERE DOES NOT APPEAR TO BE ANY ANNUAL GROWTH FOR THE SPECIFIC LIMITS THEREIN, AND IT IS OUR BELIEF SUCH IS REQUIRED UNDER THE MFA.

11. ANNEX II - THERE IS ANNUAL GROWTH, BUT NO WHERE DOES IT EXCEED THE MINIMUM FOR ARTICLE 3 ANNUAL GROWTH, AND IN FOUR CASES IT IS BELOW THE MINIMUM, AS DEFINED IN ANNEX B OF THE ARRANGEMENT.

12. FINALLY, WE HAVE NO WAY OF KNOWING IF THE LEVELS OF ANNEXES I AND II REPRESENT ANY LIBERALIZATION OVER PRESENT LEVELS. PRESUMABLY, EEC WILL PROVIDE EVIDENCE WHEN BILATERAL COMES BEFORE TSB FOR REVIEW.

13. WE RECOGNIZE, OF COURSE, THAT THIS NEW BILATERAL WAS FREELY NEGOTIATED BETWEEN EEC AND HK. HOWEVER, WE BELIEVE OUR INDUSTRY WAS TOLD DURING THE NEGOTIATION IN 1973 OF THE MFA THAT THE BURDEN OF THE MORE LIBERAL PROVISIONS ENVISIONED IN MFA WOULD BE SHARED BY ALL
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IMPORTING COUNTRIES INCLUDING OUR EEC COMPETITORS AND THAT THIS MORE EQUAL SHARING OF THE NEW BURDEN (LIBERALIZATION) WAS AND REMAINS ONE OF THE UNWRITTEN UNDERPINNINGS OF THE MFA. ACCORDINGLY, THE USG BILATERALS WERE LIBERALIZED TO CONFORM TO THE MFA ON THE ABOVE BASIS. FAILURE NO4 OF THE EEC TO LIVE UP TO THIS UNDERSTANDING COULD WELL LEAD OUR DOMESTIC INDUSTRY TO CONCLUDE IT HAS BEEN DECEIVED, WITH POTENTIALLY SERIOUS CONSEQUENCES FOR FUTURE ADMINISTRATION OF THE TEXTILE RESTRAINT PROGRAM AND, PERHAPS, IMPLICATIONS IN THE TRADE TALKS. WITH SPECIFIC REFERENCE TO THE EEC/HK BILATERAL, WHILE WE RECONGIZE IT IS IMPOSSIBLE TO COMPARE OUR HK BILATERAL WITH THAT OF THE EEC, WE BELIEVE IT IS SAFE TO SAY THAT THE OVERWHELMING THRUST OF OUR BILATERAL IS TOWARDS GREATER AND GREATER LIBERALIZATION WHILE THE EEC'S BILATERAL IS DESIGNED TO CONFORM ONLY TO THE MINIMUM REQUIREMENTS OF THE MFA. WE BELIEVE THIS ALSO WILL BECOME, UNFORTUNATELY, VERY CLEAR TO THE US DOMESTIC INDUSTRY WHEN THE TEXT OF THE EEC/HK BILATERAL IS MADE PUBLIC.

14. YOUR EXCELLENT CONTACTS WITH DORWARD MAY HELP IN GAINING SOME CLARIFICATIONS ON THE ABOVE PARAS, AND WE WOULD BE MOST INTERESTED ALSO IN YOUR REACTIONS TO THE

ABOVE. LIKEWISE, WE WOULD LIKE TO KNOW WHETHER YOU
CONCUR IN OUR JUDGMENT THAT USG SHOULD RAISE SOME OR ALL
OF THE ABOVE POINTS BEFORE THE TSB OR IN SOME OTHER FORUM
AS WELL AS YOUR ASSESSMENT ON WHAT THE OTHER EXPORTING
COUNTRIES' REACTIONS WILL BE TO THIS BILATERAL WHEN
BILATERAL MADE PUBLIC. KISSINGER

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